



State of Delaware Department of Human Resources

PARENTAL LEAVE FAQs

Policy #: To be assigned	Authority: 29 Del.C. §§ 5120, 5253
Effective Date: April 1, 2019	Supersedes: N/A
Application: Executive Branch Agency Employees	Revision Date: February 15, 2019

1. What is the purpose of Parental Leave (PL)?

The State recognizes the importance of maintaining a healthy workforce and providing economic stability for employees during initial caring for and bonding with children.

2. When can I take PL?

You can take up to 12 calendar weeks of paid parental leave during the first 12 months following the birth or adoption of a child six (6) years of age or younger, if you are eligible. The 12 weeks may be taken continuously or you may request 2-week time period PL, subject to the agency's approval.

3. Does this only apply to 100% full-time employees or are permanent part-time employees also eligible to take PL?

PL applies to full-time employees who have been employed with the State in a full-time status for at least 12 continuous months as of the date of the birth of their child or as of the date of the adoption of their child of six (6) years of age or younger.

4. Can PL be taken prior to the birth or legal adoption?

In the event that the employee requires leave before the actual birth or adoption due to medical reasons or to fulfill legal adoption obligations, other available leaves shall be utilized in accordance with Merit Rules or non-Merit agency leave policy. An employee may not use accrued sick leave, annual leave or other leave in lieu of PL for the birth or adoption of a child.

5. Will my benefits or employment status be affected if I take PL?

While on PL, the State will continue to pay the employer portion of your elected benefits, and you remain responsible for the employee portion. You will continue to earn service credit and retirement contributions, as normal. Annual and sick leave accruals also will continue.

6. In the case of two State employees becoming parents together, can they stagger their leave?

Yes. In the event that two employees of the State of Delaware are eligible for PL for the same birth or adoption, each eligible employee is entitled to 12 calendar weeks of PL.



State of Delaware Department of Human Resources

7. My spouse/partner also works for the State. Can I donate my PL so that he/she can have additional PL?

PL cannot be donated to another State employee. Additionally, PL cannot be donated to the Donated Leave Bank.

8. What is required to prove I am an eligible parent?

You are required to provide legal documentation of the birth or adoption of a child within thirty (30) days of the birth or adoption or as soon as it becomes available. The name of a legal parent must appear on the birth certificate, a legal document establishing paternity, or a legal document establishing adoption. Examples of legal documents that will be considered are: a report of birth, a birth certificate, an adoption order. The legal documents provided shall show the date of birth or date of adoption, age of child at the time of adoption, and the name of the parent(s).

9. What if I cannot provide the legal documentation by the required deadline?

Situations where a legal document cannot be provided at the time of birth or adoption, or within the required timeframe or a reasonable time thereafter, will be considered on a case-by-case basis.

10. Is there a limit on the number of PL periods an employee can get per year?

Multiple births or adoptions from a single pregnancy or adoption event qualify for one PL of 12 calendar weeks; however, if a second child is born or adopted during the 12-month period of the first PL, you may be eligible for a second PL.

11. Do two births and an adoption in a calendar year equal 36 weeks of leave?

Multiple births or adoptions from a single pregnancy or adoption event qualify for one PL; however, if a second child is born or adopted during the 12-month period of the first PL, you may be eligible for a second PL.

12. If I am not eligible for FMLA, can I request and use PL?

If you are not eligible for FMLA you may still request and use PL; however, you must apply for and use FMLA once you become eligible if still on PL.

13. If I give birth to or adopt more than one child, would I be eligible for more than 12 weeks of PL?

Multiple births or adoptions from a single pregnancy or adoption event do not increase the length of PL.

14. What if I did not apply yet in order to save my PL since I just need to apply within 30 days?

The policy requires you to give your agency 30 days' notice, if possible. You may not use accrued sick leave, annual leave, or other leave in lieu of PL for the birth or adoption of a child.



State of Delaware Department of Human Resources

15. Can I take FMLA my first week and save my PL to take after my spouse takes 12 weeks? It would still be within the 12 months.

Available FMLA must be taken concurrently with PL.

16. If I am not eligible for FMLA, can I just take annual leave that first week and then wait to start my continuous PL?

An employee may not use accrued sick leave, annual leave or other leave in lieu of PL for the birth or adoption of a child.

17. The Family and Medical Leave Act (FMLA) allows me 12 weeks of unpaid leave for the birth or adoption of a child. The State allows me to apply earned sick time during FMLA. Can I use PL to extend that time?

PL is designed to run concurrently with FMLA and Short-Term Disability (STD), as applicable. An employee may not use accrued sick leave, annual leave, or other leave in lieu of PL for the birth or adoption of a child.

18. If I go out on PL and qualify for FMLA six (6) weeks later, can I continuously stay out now for the remaining six (6) weeks of FMLA?

Eligible employees are entitled to 12 weeks of PL, as stated in the Policy. Eligible employees are also entitled to 12 weeks of FMLA, if qualified. Based on the information described above, the first six weeks would be designated as PL, the next six weeks would be PL and FMLA, and then the next six weeks would be FMLA.

19. If I go on bed rest during pregnancy, what leave am I eligible to use?

In the event that you require leave before the actual birth due to medical reasons, other available leaves shall be utilized in accordance with the Merit Rules or non-Merit agency leave policy.

20. If I have worked for the State several times but have had a break in service, am I still eligible for PL?

An eligible employee is defined as any full-time employee who has been employed with the State full-time for at least 12 continuous months as of the date of the birth of their child or as of the date of the adoption of their child of six (6) years of age or younger.

Full-time is defined as an employee who works for an Executive Branch agency in a 37.5- or 40.0-hour work week, other State full-time status, or other equivalent allowed under the Federal Labor Standards Act (FLSA) and approved by the State.

21. If I have a miscarriage or stillbirth, what leave am I eligible to use?

Available leaves shall be utilized in accordance with the Merit Rules or non-Merit agency leave policy.



State of Delaware Department of Human Resources

22. Many of our employees work two jobs. What is the impact if an employee returns to the second job while approved for PL?

Merit Rules provide that employees covered by the FLSA shall be permitted to accept additional employment in another State agency with prior written consent of the affected agencies. Overtime eligibility shall be based on the FLSA (Merit Rule 4.3). Non-merit agencies shall follow agency policy.

23. I am adopting an older child, not an infant. Can I take PL?

The PL benefit applies to the initial legal adoption of a child six (6) years of age or younger. However, any employee of the State, who has been continuously employed on a full-time basis for at least one (1) year at the time of application for leave, is entitled to six (6) weeks of unpaid leave upon the adoption of a minor child, who is over six (6) years of age. Said employee shall be entitled to be reinstated in the position held at the time of the granting of the leave absence. Neither annual nor sick leave accruals shall be accumulated during such leave of absence without pay.

24. If my newborn requires further medical care, will my time be designated as PL or sick leave to supplement my STD?

You have the responsibility to inform your HR office about the situation. HR will designate the leave appropriately and require documentation or information, as appropriate.

25. If I am not the birthing parent, can I take PL in less than 12 weeks' time to attend the birth or adoption proceeding?

You may take PL in 2-week time periods, if you are eligible.

26. If I get married and adopt my new spouse's child, who is six (6) years of age or younger, am I eligible for PL?

The purpose of PL is to provide economic stability for employees during initial caring for and bonding with children. In the situation described, PL would not apply.

27. How long do I have to use PL after birth or adoption?

PL expires 12 months from the date of the birth or adoption.

28. Can an employee take PL beyond 12 continuous months from birth or adoption?

PL expires 12 months from the date of the birth or adoption.

29. How do I apply for PL?

Please refer to the [Parental Leave Policy & Procedure](#).

30. Does an employee have to be full-time (FT) and/or benefit-eligible for 12 months or could a casual/seasonal that became FT for a total of 12 months as an employee be eligible for PL?

The employee must have been full-time for 12 months prior to the birth or adoption date.



State of Delaware Department of Human Resources

30a. Do employees need to be eligible at the time of their request – 30 days out?
Employees must be eligible on the date of the birth or adoption.

30b. What if I become eligible one day after I give birth or legally adopt?
You are not eligible, as you must be eligible at the time of the birth or adoption.

31. What happens if a holiday falls while I am out on PL?

Holidays or Severe Weather Conditions and Emergencies declarations occurring during a week when PL is taken will not extend the PL time.

32. Are there any consequences if an employee decides not to return to work after receiving the 12 weeks of PL?

An employee's simply not returning to work after the expiration of PL can be considered job abandonment, and the appropriate Merit Rules, State policy, or non-Merit agency leave policy will apply.

33. Can I take PL in half days or hours?

PL shall be charged as a full day regardless of the daily number of hours used or regularly worked.

34. Can I use PL to supplement my STD benefit?

PL may be used to supplement the State's STD benefit not to exceed 100% of an employee's creditable compensation¹ following the birth of a child. PL shall be charged as a full day regardless of the hours needed to supplement STD benefits.

35. Can I lose my job if I take PL?

At the conclusion of PL, the State shall restore the eligible employee to the same or equivalent position, barring any unforeseen circumstances unrelated to the employee's taking PL (i.e., workforce reduction).

36. I transitioned to Long-Term Disability (LTD). Am I still eligible to take PL?

If you transitioned to LTD², this is considered a break in service and you would not be eligible until after you have returned to full-time employment for 12 months.

37. Am I eligible for PL if I am a surrogate mother or sperm donor?

No, those situations do not qualify for PL.

¹ "Creditable Compensation," as defined in Title 29, § 5251(c), shall mean the base rate of compensation that the employee received on the last day of employment before the employee developed a disability.

² Upon the exhaustion of the maximum Short-Term Disability (STD) benefit period, any employee, except those entitled to hazardous duty pay as defined in 29 Del.C. § 5933(c), and those working on a temporary reduced, alternate, light duty and/or part-time basis, shall no longer be an employee of the State or any of its political subdivisions provided the employee has exhausted their FMLA entitlement and/or is not FMLA eligible.



State of Delaware Department of Human Resources

38. If I am suspended as a disciplinary action, can I supplement my pay with PL?

An employee may not use PL to cover an absence resulting from an administered disciplinary suspension.

39. If I requested 12 weeks of continuous PL or 2-week time period PL and it was approved, may I change my request?

With reasonable notice to your human resources (HR) representative, your request to revise your original PL request will be considered.

40. Why can I only take PL in 2-week time periods?

This allowance is designed to provide eligible employees the flexibility to use less than 12 continuous calendar weeks; to ensure that eligible employees on an Alternative Work Schedule, 14-day work periods (FLSA), or other flexible schedules, are provided PL equitably; and for agencies to plan operationally for employee absences.

41. Who should I contact if I have questions about the PL benefit?

Your agency HR representative will be able to assist you with your questions.

42. My request for PL was denied. Where do I appeal this?

Please contact your agency HR representative for clarification. If you need further assistance, please call the Department of Human Resources, Employee Relations Unit at 302-739-4195.